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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,804	11/19/2001	Jerry Bessa	01GEN1	9467

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EXAMINER	
GESESSE, TILAHUN	
ART UNIT	PAPER NUMBER
2684	

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/054,804	BESSA ET AL.	
	Examiner	Art Unit	
	Tilahun B Gesessse	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 July 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to applicant's argument filed 7/13/04, in which claims 1-14 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-3,8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachner, III et al "Bachner" in view of De Crouy-chanel et al "De-chanel" (6,131,018).

As to claim 1, Bachner discloses a holster (20) operable for attachment to a person (22), for transporting and recharging a battery powered portable communication device (21) (column 3, lines 33-49 and figures 1-3) comprising: Bachner discloses a container (20) having a holder with an outer surface having a solar energy (31) affixed thereto, and the holder an externally accessible for receiving and housing a portable

communication device there within (column 3, line 33-column 4 line 32). Bachner discloses a clip (22) pivotally attached to the holder, the clip (22) being operable for attachment of the holster to the person, thereafter enabling the person to the soar energy with respect to a source or radiant energy (column 3, lines 33-49 and column 4 lines 3-16). Bachner differs in teaching rotationally adjust the orientation of the solar panel "photovoltaic cell". But, Bachner teaches a clip 22 mounted on a upper position of the rear side 24,prefereably is spring loaded, either by a separate metallic spring or by the natural elasticity of the clip 22 (column 3, line 44-47 and figure 1), further more, De-chanel discloses photovoltaic cell (20) and the orientation of the photovoltaic cell (column 2, lines 62-68 and figures 1-5). Since, Bachner, in the similar art of endeavor, teaches solar energy, then, it would have been obvious to one of ordinary skill in the art at the time of the invention to rotate and adjust the orientation of holster towards the source of radiant energy, in order the solar panel collect solar energy and recharge the battery pack in the portable communication device while being transported by the user.

As to claims 2-3, Bachner discloses a battery recharging circuit integral therewith, the battery recharging circuit being electrically connected to the solar cell "photovoltaic cell " (figure 6). As to claim 8, which recites the steps of apparatus, similar to claim 1, is rejected for the same reason as set forth in the claim.

As to claims 9-10, Bachner discloses a battery recharging circuit integral therewith, the battery recharging circuit being electrically connected to the solar cell "photovoltaic cell " (figure 6).

4. Claims 4-7 and 1 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bachner in view of De-chanel as applied to claims 1-3 and 9-10 above, and further in view of Hashimoto (5,867,797).

As to claims 4-7, Bachner and De-chanel do not teach a visual connection indicator means operable for verifying electrical connection between the battery recharging circuit and the rechargeable battery housed within the communication device and a light emitting diode. However, Hashimoto discloses a visual connection indicator means operable for verifying electrical connection between the battery recharging circuit and the rechargeable battery housed within the communication device and a light emitting diode (column 2, line 51-colum 3, line 25 and figure 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Bachner, De-chanel and Hashimoto, in indicating the charge connection, as taught by Hashimoto, in order to display the status of the charging process to the user.

As to claims 1 1-14, Bachner and De-chanel do not teach a visual connection indicator means operable for verifying electrical connection between the battery recharging circuit and the rechargeable battery housed within the communication device and a light emitting diode. However, Hashimoto discloses a visual connection indicator means operable for verifying electrical connection between the battery recharging circuit and the rechargeable battery housed within the communication device and a light emitting diode (column 2, line 51-colum 3, line 25 and figure 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to

combine Bachner, De-chanel and Hashimoto, in indicating the charge connection, as taught by Hashimoto, in order to display the status of the charging process to the user.

Response to Arguments

5. Applicant's arguments filed 7/13/04 have been fully considered but they are not persuasive.

On page 6, fourth paragraph of response, applicant argued that the present invention the clip is "pivotally attached to the case and intended to maintain the position for maximal illumination of the solar cell.

The examiner disagrees. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the clip is "pivotally attached to the case and intended to maintain the position for maximal illumination of the solar cell) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

On page 6, fourth paragraph through page 7, first paragraph, of response applicant argued that Bachner teaches clip just for securing to a belt or trap to a user. And also De-Chanel does not teach rotate about it plane of attachment. Therefore, the feature of a clip pivotally attached to the container that enables the person to rotationally adjust the orientation of the photovoltaic cell with respect t a source of radiation energy, is novel and patentable.

The examiner disagrees. Bachner teaches a clip 22 is mounted on an upper portion of the rear side 24 that preferably is spring loaded, either by a separate metallic spring or by the natural elasticity of the clip 22(column 3, lines 44-46). Further more, De-Chanel also teaches photovoltaic cell with a means to keep the orientation of the face towards the solar energy source (column 2, lines 62-68).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

To sum up, in view of the applied prior art and response to applicant's argument, the rejection to applicant's broad recited claims is proper and maintained.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Caldwell (US 6, 339,311) discloses photovoltaic power source for portable electronic device (title, column 6, line 42-column 7, line 10 and figure 4).

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tilahun B Gesesse whose telephone number is 703-308-5873. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

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December 15, 2004

TILAHUN GESESSE
PRIMARY EXAMINER